

PATENT COOPERATION TREATY

PCT/DE2004/000056

PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II
OF THE PATENT COOPERATION TREATY)
(PCT Rules 44bis.3(c) and 72.2)

Dr. Heyner & Dr. Sperling

Patentanwälte To:

20. Sep. 2005

Posteingang

Kopie: Mdt. / Büro / Frise

SPERLING, Thomas
Patentanwälte Dr. Heyner & Dr. Sperling
Niederwaldstrasse 27
01277 Dresden
ALLEMAGNE

Date of mailing (day/month/year)
15 September 2005 (15.09.2005)

Applicant's or agent's file reference
IGV6-02-IP

IMPORTANT NOTIFICATION

International application No.
PCT/DE2004/000056

International filing date (day/month/year)
13 January 2004 (13.01.2004)

Applicant

IGV INSTITUT FÜR GETREIDEVERARBEITUNG GMBH et al

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Agnes Wittmann-Regis

Facsimile No. +41 22 740 14 35

Facsimile No. +41 22 338 89 70

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference IGV6-02-IP	FOR FURTHER ACTION		See item 4 below
International application No. PCT/DE2004/000056	International filing date (<i>day/month/year</i>) 13 January 2004 (13.01.2004)	Priority date (<i>day/month/year</i>) 14 January 2003 (14.01.2003)]	
International Patent Classification (IPC) or national classification and IPC 7 A21D 2/16, 13/00			
Applicant IGV INSTITUT FÜR GETREIDEVERARBEITUNG GMBH			

1.	This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).		
2.	This REPORT consists of a total of 8 sheets, including this cover sheet.		
	In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.		
3.	This report contains indications relating to the following items:		
	<input checked="" type="checkbox"/> Box No. I	Basis of the report	
	<input checked="" type="checkbox"/> Box No. II	Priority	
	<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	
	<input type="checkbox"/> Box No. IV	Lack of unity of invention	
	<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	
	<input type="checkbox"/> Box No. VI	Certain documents cited	
	<input checked="" type="checkbox"/> Box No. VII	Certain defects in the international application	
	<input checked="" type="checkbox"/> Box No. VIII	Certain observations on the international application	
4.	The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).		

<p style="text-align: center;">The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland</p> <p>Facsimile No. +41 22 740 14 35</p>	<p>Date of issuance of this report 02 September 2005 (02.09.2005)</p> <p>Authorized officer Agnes Wittmann-Regis</p> <p>Telephone No. +41 22 338 89 70</p>
--	--

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

Translation

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

<div style="border: 1px solid black; width: 100%; height: 100%;"></div>		Date of mailing (day/month/year) See form PCT/ISA/210
Applicant's or agent's file reference IGV6-02-IP		FOR FURTHER ACTION See paragraph 2 below
International application No. PCT/DE2004/000056	International filing date (day/month/year) 13-01-2004	Priority date (day/month/year) 14-01-2003
International Patent Classification (IPC) or both national classification and IPC A21D 2/16, 13/00		
Applicant IGV INSTITUT FÜR GETREIDEVERARBEITUNG GMBH		

1. This opinion contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion
<input checked="" type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input checked="" type="checkbox"/>	Box No. VII	Certain defects in the international application
<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP	Date of completion of this opinion	Authorized officer
Facsimile No.		Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/DE2004/000056

Box No. I

Basis of the report

1. With regard to the language, this opinion has been established on the basis of:
 - ☐ the international application in the language in which it was filed
 - ☐ the translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rule 12.3(a) and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material
 - ☐ on paper
 - ☐ in electronic form
 - c. time of filing/furnishing
 - ☐ contained in the international application as filed
 - ☐ filed together with the international application in electronic form
 - ☐ furnished subsequently to this Authority for the purposes of search
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/DE2004/000056

Box No. II

Priority

1. ☒ The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43bis.1 and 64.1) is the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/DE2004/000056

Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims 1-14		YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims 1-14		NO
Industrial applicability (IA)	Claims		YES
	Claims 1-14		NO
2. Citations and explanations:			
1. Reference is made to the following documents:			
D1:	DE 736 363 C (HERMANN LOOS), 16 June 1943 (1943-06-16)		
D2:	BRUMMER J M; MORGENSTERN G; NEUMANN H: "Effekt des Roggenmelanteils auf die Kleingebäckqualität", GETREIDE, MEHL UND BRO, Vol. 45, No. 1, 1991 , pages 20-23, XP009030873, DETMOLD, GERMANY		
D3:	DATABASE FSTA [online], INTERNATIONAL FOOD INFORMATION SERVICE (IFIS), FRANKFURT/MAIN, DE; FISCHER J: "Breadmaking with rye flour", Database Accession No. 93-1-03-m0086, XP002280097		
<u>Novelty</u>			
2.	The subject matter of independent product claim 1 and of its dependent claims (claims 2 to 14) is novel (PCT Article 33(2)). Rye bread containing 50% ground rye produced with fats but without souring (see Box V, point 3.1 below) is not known from the prior art.		
<u>Inventive step</u>			
3.	The subject matter of independent product claim 1 does not involve an inventive step (PCT Article 33(3)).		

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/DE2004/000056

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

- 3.1 Document D1 discloses wholemeal rye bread made using yeast without souring and with a standing time of more than 12 hours (page 2, lines 64 to 114). A pH higher than 4.7 is considered to be implicitly disclosed. The baking mould is greased, but there is no mention of a fat content of 0.5% or more in the dough itself. Something similar is disclosed in document D3, which describes breadmaking with 65% rye, without dough souring but with preliminary dough maturation using yeast. The breads made in this way have an improved aroma.
- 3.2 The objective technical problem is seen as that of how to make non-acidic rye biscuits with improved baking properties, for example, improved volume, processability and crust properties (page 6, § 2-3).
- 3.3 According to document D2 the use of between 1 and 3% fat improves the properties of rye biscuits, in particular the gas retention, machine processability and crust flowerets (page 22).
- 3.4 Taking D1 or D3 to be the closest prior art, the technical problem is solved by adding fat. However, this solution is already known from D2.
- 3.5 Dependent claims can only be considered inventive if the independent claim to which they refer is inventive.
- 3.6 The idea of using finely ground rye flour to lighten the crumb is trivial.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/DE2004/000056

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

Contrary to the requirements of PCT Rule 5.1(a)(ii), the description does not cite documents D1 to D3 or give an account of the relevant prior art disclosed therein.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/DE2004/000056

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

The subject matter of claim 1 is unclear (PCT Article 6) because it is contradicted by claim 4, which discloses a dough maturation period of less than 12 hours, namely 3 hours.